

REMARKS:

Claims 1-8 are pending in the application. In the Office Action dated October 17, 2005, The Examiner rejected claims 1-8 under 35 U.S.C. 112, second paragraph, as being indefinite, and rejected claims 1-8 under 35 U.S.C. 102(e) as being anticipated by Yamaki. These rejections are respectfully traversed.

In this amendment, claims 1 and 3 were amended for clarity in order to overcome the 35 U.S.C. 112, second paragraph rejections. Claim 4 was amended to depend from claim 2 rather than claim 1 to correct antecedent basis of "the thermostat failure diagnosis condition," and to include the wording of amended claim 1. No new matter was added by these non-substantive amendments.

The 35 U.S.C. 112, second paragraph rejections of claims 1 and 3

Claims 1 and 3 have been amended for clarity. See paragraph [0017] lines 8-18 of the instant application for detailed descriptions of the selection of a standard time period and the countdown of the standard time period.

The 35 U.S.C. 102(e) rejections

The Examiner cited paragraphs 0095, 0195, 0198, and 0203 of Yamaki as allegedly anticipating every limitation of claim 1 of the present invention.

Paragraph 0095 discloses diagnosis of an intake air temperature sensor, not a thermostat. This diagnosis is carried out by comparing intake air temperatures at two different times.

Paragraph 0195 discloses thermostat diagnosis based directly on a comparison of estimated coolant temperature and actual coolant temperature.

Paragraphs 0198 and 0203 disclose diagnosis of an air/fuel ratio detector, not a thermostat. While the intake air amount is measured in these paragraphs, it is used only in diagnosing the air/fuel ratio. Intake air amount is not used in the diagnosis of a thermostat in Yamaki.

Yamaki's thermostat diagnosis, described in paragraphs 0128-0132 and 0195, and FIG. 11, is carried out by mere comparison of an estimated coolant temperature to an actual coolant temperature. Yamaki does not disclose or suggest selecting a standard time period based on the intake air quantity and the cooling water temperature, nor does he

disclose or suggest correcting a target temperature accounting for the influence of a head wind.

For at least these reasons, claim 1 is patentable over Yamaki. The rejections of the dependent claims are rendered moot by the patentability of independent claim 1, from which all other pending claims depend.

Conclusions

In view of the foregoing, Applicant believes all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance is respectfully requested.

Authorization is granted to charge any outstanding fees due at this time for the continued prosecution of this matter to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (matter no. 060945-0178).

Respectfully submitted,



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